

# **Attorney General's Speech at International Institute for Strategic Studies**

## *The modern law of self-defence*

**11 January 2017**

### **Introduction**

Thank you to the International Institute for Strategic Studies for hosting us today.

The Institute's Mission Statement sets out its aim to promote 'the development of sound policies that further global peace and security, and maintain civilised international relations.'

For my part, I welcome the opportunity to speak to you on an international question which is one of the most serious any government can face – when is it lawful for a state to use force – always a last resort and only where it is necessary.

Today I want to talk specifically about when it is lawful to use force in self-defence – whether of the UK, or of our allies. And I want to set out, in greater detail than the Government has before, how the UK applies the long-standing rules of international law on self-defence to our need to defend ourselves against new and evolving types of threats from non-state actors.

I don't need to remind this audience that the UK is a world leader in promoting, defending and shaping international law. In the 19<sup>th</sup> Century as modern international law was being formed, it was the UK (in 1807) that helped outlaw and end the international slave trade and then slavery itself.<sup>1</sup> It was diplomatic correspondence between the United Kingdom and the United States which followed the Caroline Incident of 1837 that defined the parameters of the concept of imminence, as it was understood at that time and to which I will return.<sup>2</sup> It was the UK, with the US, which agreed to international arbitration as a means for the settlement of international disputes in the Jay Treaty of 1795.<sup>3</sup> Our commitment to defending and shaping international law is undimmed since then. The UK was a founding member of the League of Nations and the United Nations, as well as an original signatory to the Kellogg-Briand Pact<sup>4</sup>, Ottawa Treaty<sup>5</sup> and the Rome Statute.<sup>6</sup> And we are one of the biggest contributors of funding to the International Criminal Court.<sup>7</sup> We are also the only permanent member of the UN Security Council that recognises the compulsory jurisdiction

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<sup>1</sup> <http://www.parliament.uk/about/living-heritage/transformingsociety/tradeindustry/slavetrade/overview/parliament-abolishes-the-slave-trade/>

<sup>2</sup> *Caroline* case, 29 BFSP 1137; 30 BFSP 195

<sup>3</sup> The Jay Treaty <[http://avalon.law.yale.edu/18th\\_century/jay.asp](http://avalon.law.yale.edu/18th_century/jay.asp)>

<sup>4</sup> The Kellogg-Briand Pact <[http://avalon.law.yale.edu/20th\\_century/kbpact.asp](http://avalon.law.yale.edu/20th_century/kbpact.asp)>

<sup>5</sup> Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction <[http://www.un.org/Depts/mine/UNDocs/ban\\_trty.htm](http://www.un.org/Depts/mine/UNDocs/ban_trty.htm)>

<sup>6</sup> Rome Statute of the International Criminal Court <[https://www.icc-cpi.int/nr/rdonlyres/ea9aeff7-5752-4f84-be94-0a655eb30e16/0/rome\\_statute\\_english.pdf](https://www.icc-cpi.int/nr/rdonlyres/ea9aeff7-5752-4f84-be94-0a655eb30e16/0/rome_statute_english.pdf)>

<sup>7</sup> Annual Update to Parliament on UK Support and Funding for International Criminal Justice: Written statement - HCWS111 <<https://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2016-07-21/HCWS111/>>

of the International Court of Justice<sup>8</sup>, and we remain one of the largest contributing states to the International Committee of the Red Cross<sup>9</sup>, supporting it in its endeavours to promote and strengthen international humanitarian law.

As the latest in a long line of Attorneys General, I follow in a tradition of advocating, celebrating and participating in a rules-based international order.

On several occasions in its history, the United Kingdom has subjected itself voluntarily to the jurisdiction of various international tribunals. My predecessors and I have appeared before a variety of international tribunals on behalf of the UK. And while we do not win every point in every case, I believe this personal investment demonstrates the commitment to international law of those who have done my job.

Of course, consistent with our commitment to that rules-based international order, the UK may on occasion decide to withdraw from a particular international agreement. You may have noticed that the British public has asked us to do so recently, with regard to one such set of agreements. The government is acting on that mandate, through the process of withdrawal from the European Union, and is doing so in accordance with Article 50 of the Treaty on European Union – in other words, in a manner fully compliant with international law.

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<sup>8</sup> Declarations Recognising the Jurisdiction of the Court as Compulsory <<http://www.icj-cij.org/jurisdiction/?p1=5&p2=1&p3=3>>

<sup>9</sup> International Committee of the Red Cross, Annual Report 2015, pp. 572-573 <<https://www.icrc.org/en/document/annual-report-2015-icrc>>

That is the nature of the country we are, and the nature of our commitment to the Rule of Law.

There are few more fundamental rules of international law than the prohibition of the use of force and the right of self-defence, defined in customary international law and codified in important respects in the UN Charter.<sup>10</sup>

The UK should and will only use armed force, and will only act in self-defence, where it is consistent with international law to do so. International law sets the framework for any action taken by Sovereign States overseas, and the UK acts in accordance with it.

Today, I want to spell out how we ensure that we do so.

It is exceptional for an Attorney General to speak in any way about matters upon which he or she advises. The long-standing Law Officers' Convention makes clear that the Government does not disclose the content or even the fact of Law Officers' advice without consent of the Law Officers. This is to ensure Government has access to full and frank legal advice, and also to reflect collective Cabinet responsibility in decision making.

That said, I have authorised disclosure of the fact that I have advised on the use of armed force in self-defence on two occasions. The first was made public by the former Prime Minister in his statement to Parliament in September 2014 in

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<sup>10</sup> The Charter of the United Nations <<http://www.un.org/en/charter-united-nations/>>

relation to the use of force against Daesh in the collective self-defence of Iraq.<sup>11</sup>

The second was in 2015 in relation to a strike against Reyaad Khan, the British national who was a member of Daesh, and who was killed by UK forces because of the threat that he posed to the UK.<sup>12</sup>

But those disclosures were exceptional situations, and I am not here today to discuss the application of the Law Officers' Convention, or specific cases of the use of force by the UK.

What I want to do is talk about some of the criteria that I and my predecessors have used in determining whether a particular proposed course of action is lawful.

### **The law of self-defence - foundations**

I appreciate that this will of course be very familiar territory for a large number of you here today, but let me start by summarising briefly the law on the use of force.

To be clear, today I address only the law relevant to the resort to the use of armed force (*jus ad bellum*), and not the law which applies to the conduct of military operations (*jus in bello*). As you know, the starting point is that the use

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<sup>11</sup> HC Deb, 26 September 2014, column 1263

<<http://www.publications.parliament.uk/pa/cm201415/cmhansrd/cm140926/debtext/140926-0001.htm>>

<sup>12</sup> HC Deb, 7 September 2015, column 26 <

<http://www.publications.parliament.uk/pa/cm201516/cmhansrd/cm150907/debtext/150907-0001.htm>>

of force is prohibited under Article 2(4) of the UN Charter.<sup>13</sup> That is such a fundamental tenet of the post 1945 world order that it is considered by many to be a peremptory norm from which no derogation is permissible.

Even so, there are clear exceptions to that prohibition, both in the UN Charter itself and, in the United Kingdom's view, in customary international law. Under the UN Charter, armed force may be used both pursuant to a Chapter VII authorisation by the UN Security Council and in individual or collective self-defence under Article 51 of the UN Charter.<sup>14</sup> The UK also recognises humanitarian intervention as a potential legal basis for the use of force in certain exceptional circumstances.

That is to frame the issue. But it is the law of self-defence, in particular against non-state actors, which I want to discuss today.

In relation to self-defence, let us remind ourselves of the striking terms of that exception under Article 51 which provides that:

‘Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations.’

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<sup>13</sup> The Charter of the United Nations, Chapter I <<http://www.un.org/en/sections/un-charter/chapter-i/index.html>>

<sup>14</sup> The Charter of the United Nations, Chapter VII <<http://www.un.org/en/sections/un-charter/chapter-vii/index.html>>

Of course, such action in self-defence can be individual or collective – in other words, in defence of ourselves alone or of our friends and allies.<sup>15</sup> The classic example of the latter is Article 5 of the North Atlantic Treaty 1949, whereby state parties agree that an armed attack against one of them is to be considered an armed attack against all of them.<sup>16</sup>

Like many other states, the long-standing UK view is that Article 51 of the UN Charter does not require a state passively to await an attack, but includes the ‘inherent right’ – as it’s described in Article 51 – to use force in self-defence against an ‘imminent’ armed attack, referring back to customary international law.

As you know, any use of force in self-defence under Article 51 must be both necessary and proportionate to the threat. A part of the assessment of necessity, where an attack has not yet taken place, is that the attack must be imminent for states to take action. To put it simply, is action necessary now?

The principles of the modern law on imminence are almost universally accepted as having their origins in the diplomatic correspondence of 1842 following the Caroline Incident five years earlier, to which I have already referred.<sup>17</sup>

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<sup>15</sup> The UK’s position is that for collective self-defence to be engaged there does not need to be a direct threat to the assisting state. The victim state (which is subject to the threat of an imminent armed attack) must have sought the assistance of the assisting state.

<sup>16</sup> The North Atlantic Treaty <[http://www.nato.int/cps/en/natohq/official\\_texts\\_17120.htm](http://www.nato.int/cps/en/natohq/official_texts_17120.htm)>

<sup>17</sup> *Caroline* case, 29 BFSP 1137; 30 BFSP 195

The facts, well known to everyone here I am sure, were as follows. On 29<sup>th</sup> December 1837, a party of militia commanded by the Royal Navy crossed the border between British Canada and the United States and seized a steamboat called *The Caroline* which had been commandeered by a group of American sympathisers with the Canadian rebellion against British rule.

Although *The Caroline* was not at that moment engaged in a direct assault on British territory, the British commander believed she had previously been used to transport weapons to the rebels, and judged that destruction of *the Caroline* would both prevent further supplies from reaching the rebels and deprive them of access to the Canadian mainland. *The Caroline* was set on fire and sent over Niagara Falls, killing two in the process.

Later, correspondence was exchanged between the US Government and ours in which the legality of the Caroline Incident was debated. This resulted in the first known statement of the law on anticipatory self-defence. Imminence was described in the *Caroline* case as a threatened attack which was ‘instant, overwhelming, leaving no choice of means, and no moment of deliberation.’

In the years that followed that incident 180 years ago, it became firmly established that measures taken in self-defence must be both necessary and proportionate to alleviate the threat.



## Contemporary developments

The UK and others have acted many times in reliance on the inherent customary international law right of individual and collective self-defence. The UK relied upon self-defence to free the Falkland Islands in 1982. The UK was part of the US-led coalition that took action against Al Qaida and the Taliban in Afghanistan in 2001<sup>18</sup> and it is currently operating in Iraq and Syria on the basis of self-defence.<sup>19</sup>

And while the fundamental principles of the law remain, the way the law is applied has not stood still since 1837, as is only to be expected given both the passage of time and changes in the nature of armed conflict. International law is not static and is capable of adapting to modern developments and new realities. In my view, this capacity to adapt is both positive and necessary. It ensures that we are able to lawfully and effectively respond to changing scenarios and needs in a principled way, applying the law in a way that recognises the world we live in now. Being unable to do so could weaken the rules-based international order.

The phenomenon of international terrorism, for example, has caused the international community to apply the law to new circumstances.

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<sup>18</sup> The UK's position is that whether a threat is imminent is something which falls to be assessed by reference to the threat itself. A UNSCR acknowledging the existence of a threat, but not providing a legal basis for action under Chapter VII, would not remove the need for a State to be satisfied that there is a threat of an imminent armed attack.

<sup>19</sup> HC Deb, 26 November 2015, Columns 1489-1494 <

<http://www.publications.parliament.uk/pa/cm201516/cmhansrd/cm151126/debtext/151126-0001.htm#15112625000002> >

Of course, it is right, and worth restating, that we deal with those committing terrorist attacks by means of a criminal justice response, where we can. As stated in the Chatham House Principles of International Law on the Use of Force by States in Self-Defence: ‘For action in self-defence to be ‘necessary’, it must first be clear that measures of law enforcement would not be sufficient.’<sup>20</sup>

The importance of law enforcement measures is also emphasised in the Leiden Policy Recommendations on Counter-Terrorism and International Law.<sup>21</sup> We fully support strengthening the capability to prosecute such offences domestically and internationally. Indeed, in September, the Foreign Secretary, in collaboration with the Foreign Ministers of Iraq and Belgium launched a global campaign at the United Nations to bring Daesh to justice.<sup>22</sup> A major strand of this campaign is domestic and international criminal accountability for Daesh crimes.

But the situation we face today does not always allow for the possibility of using criminal law enforcement measures to stop attacks – when attacks are planned from outside our territory and where the host state is unable or unwilling to act.

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<sup>20</sup> ‘The Chatham House Principles of International Law on the Use of Force by States in Self-Defence’, *The International and Comparative Law Quarterly*, Vol. 55, No. 4 (2006), pp. 963-972

<sup>21</sup> Nico Schrijver and Larissa van den Herik, ‘Leiden Policy Recommendations on Counter-Terrorism and International Law’, *Netherlands International Law Review*, Vol. 57 No. 3 (2010), pp. 531-550

<sup>22</sup> Speech by UK Foreign Secretary Boris Johnson on Bringing Daesh to Justice at the 71st United Nations General Assembly ministerial week, 19 September 2016 <<https://www.gov.uk/government/speeches/our-aim-has-got-to-be-justice-for-all-of-daeshs-victims>>

As evidence of international law's capacity to change, the tragic events of 9/11 proved a catalyst to new applications of international legal principles.

Following the attacks, the UN Security Council unanimously adopted resolutions expressing the Council's readiness to take all necessary steps to respond to the attacks and confirmed that self-defence could be justified in relation to non-state actors.<sup>23</sup>

Many states now hold the view, and have acted on the basis, that the inherent right of self-defence extends to the use of force against non-state actors, and includes the right to use force in response to both an actual and an imminent armed attack by that non-state actor.<sup>24</sup>

A number of states have also confirmed their view that self-defence is available as a legal basis where the state from whose territory the actual or imminent armed attack emanates is unable or unwilling to prevent the attack or is not in effective control of the relevant part of its territory.<sup>25</sup>

And the principles of self-defence against attacks by non-state actors are now being applied in an era where non-state actors can occupy territory, and launch or direct murderous attacks.

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<sup>23</sup> United Nations Security Council Resolution 1368, United Nations Security Council Resolution 1373 and United Nations Security Council Resolution 1377 < <http://www.un.org/Docs/scres/2001/sc2001.htm> >

<sup>24</sup> See, for example, the table attached at Annex 1 listing notifications lodged by states with the United Nations Security Council in relation to the exercise of their right of self-defence against Daesh

<sup>25</sup> Elena Chachko and Ashley Deeks, 'Who is on Board with "Unwilling or Unable"?', *Lawfare*, 10 October 2016 < <https://www.lawfareblog.com/who-board-unwilling-or-unable> >

## **The threat we face**

So, one of the real-world legal questions we face today is not so much who threatens an armed attack, but the standards by which we judge whether such an attack is imminent, allowing a lawful response by way of self-defence.

It is obvious that much has changed since 1837. We are a long way from being able to see troops massing on the horizon. The frontline has irretrievably altered.

And much has changed even since the immediate response to 9/11.

Today the challenges for those seeking to protect our national security are much greater. We have seen new types of attacks around the globe, including in Europe, Africa, and the Middle East.

At the time of 9/11, social media, Facebook, Twitter, WhatsApp and the like, did not exist.

Technology was far less mobile. Now it is used to evade law enforcement, to conceal those who would do us harm, and to inspire attacks around the world that previously would have taken months of planning. Those earlier attacks would have had to overcome the logistical hurdles and law enforcement barriers that come from crossing borders. Now, an individual so inclined can watch a video on YouTube, source an instruction manual on homemade explosives on the Dark Web, and act on whatever misconceived ideology they have absorbed,

all in a short space of time, without travelling abroad and without direct communication with any established organisational leadership.

The world is changing fast and we must be sure the law is keeping up.

Where there is an identified direct and imminent threat to the UK or British interests abroad, the UK has always maintained it will take action to counter that threat. Lethal action will always be a last resort, when there is no other option to defend ourselves against an attack and no other means to detain, disrupt or otherwise prevent those plotting acts of terror.

When we take such action, we must do so in accordance with international law including international humanitarian law. And that means having a clear understanding of when the threshold is met to justify such action.

### **Applying the law to that threat**

So how does the law on imminence apply to the threat we face?

During my evidence to the House of Commons Justice Select Committee in September last year, I was asked about the standard the Government applies to the concept of self-defence when taking such action.

I said that something ‘we... need to think about as a society... is what imminence means in the context of a terrorist threat, compared with back in the

1830s<sup>26</sup> when the customary international law test was set down following the Caroline Incident. When do we now say a threat of an armed attack is sufficiently imminent to trigger a state's right to use force in self-defence?

I was speaking in the wake of the attacks in Mumbai, Nairobi, and Sousse, but prior to the Paris attacks last November, and a number of more recent attacks around the world. That question surely needs thinking about all the more today.

So let me set out the UK Government's position on that question – namely what “imminence” means in the context of the current and evolving terrorist threat.

The Government has a primary duty to protect the lives of its citizens. But as I have said already, it must do this whilst also upholding the rule of law, and only use lethal force where there is a clear legal basis for doing so.

There have been a number of useful attempts to provide further guidance on the concept of imminence since 9/11, including the Chatham House principles in 2005<sup>27</sup> and the Leiden Policy Recommendations in 2010.<sup>28</sup>

In 2012 Sir Daniel Bethlehem, former Legal Adviser to the Foreign and Commonwealth Office, set out in an article published in the American Journal

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<sup>26</sup> Oral evidence: The Work of the Attorney General, HC 409  
<<http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/justice-committee/the-work-of-the-attorney-general/oral/21698.html>>

<sup>27</sup> ‘The Chatham House Principles of International Law on the Use of Force by States in Self-Defence’, *The International and Comparative Law Quarterly*, Vol. 55, No. 4 (2006), pp. 963-972

<sup>28</sup> Nico Schrijver and Larissa van den Herik, ‘Leiden Policy Recommendations on Counter-Terrorism and International Law’, *Netherlands International Law Review*, Vol. 57 No. 3 (2010), pp. 531-550

of International Law a series of principles that warrant serious reflection.<sup>29</sup> The one I would like to focus on here is the series of factors that he identified should be taken into account when assessing imminence. That paper, and the principles he set out more generally, were informed by detailed official-level discussions between foreign ministry, defence ministry, and military legal advisers from a number of states who have operational experience in these matters. I think Principle 8 on imminence, as part of the assessment of necessity, is a helpful encapsulation of the modern law in this area.

Sir Daniel's proposed list of factors was not exhaustive, but included (at Principle 8), the following:

- (a) The nature and immediacy of the threat;*
- (b) The probability of an attack;*
- (c) Whether the anticipated attack is part of a concerted pattern of continuing armed activity;*
- (d) The likely scale of the attack and the injury, loss or damage likely to result therefrom in the absence of mitigating action; and*
- (e) The likelihood that there will be other opportunities to undertake effective action in self-defense that may be expected to cause less serious collateral injury, loss or damage.*

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<sup>29</sup> Daniel Bethlehem, 'Principles Relevant to the Scope of a State's Right of Self-Defense Against an Imminent or Actual Armed Attack by Non-state Actors', 106 *American Journal of International Law* 769 (2012)

It is my view, and that of the UK Government, that these are the right factors to consider in asking whether or not an armed attack by non-state actors is imminent and the UK Government follows and endorses that approach.

In each exercise of the use of force in self-defence, the UK asks itself the questions that flow from that articulation. Questions like - how certain is it that an attack will come? How soon do we believe that attack could be? What scale of attack is it likely to be? Could this be our last clear opportunity to take action? And crucially – is there anything else we could credibly do to prevent that attack?

In answering those questions, we are of course guided by our diplomats, military analysts and intelligence agencies in analysing and verifying the basis for our judgment. Where appropriate, the National Security Council takes the decision on the UK's approach, with the benefit of legal advice where necessary from the Attorney General. We also work with partners in assessing threats. In accordance with the Chatham House principles, it is crucial that we make these assessments 'in good faith and on the basis of sound evidence' in order to have a sufficient level of confidence to justify action.<sup>30</sup>

Another observation by Sir Daniel, as part of Principle 8 addressing imminence, also warrants comment, namely:

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<sup>30</sup> The Chatham House Principles of International Law on the Use of Force by States in Self-Defence', *The International and Comparative Law Quarterly*, Vol. 55, No. 4 (2006), pp. 963-972



‘[t]he absence of specific evidence of where an attack will take place or of the precise nature of an attack does not preclude a conclusion that an armed attack is imminent for purposes of the exercise of a right of self-defense, provided that there is a reasonable and objective basis for concluding that an armed attack is imminent.’<sup>31</sup>

This statement reflects and draws upon what has been a settled position of successive British Governments.

Sir Daniel’s formulation must be right. In a world where a small number of committed plotters may be seeking to inspire, enable and direct attacks around the world, and indeed have a proven track record of doing so, we will not always know where and when an attack will take place, or the precise nature of the attack. But where the evidence supports an assessment that an attack is imminent it cannot be right that a state is prevented from meeting its first duty of protecting its citizens without nailing down the specific target and timing of an attack. Apart from anything else, our enemies will not always have fixed plans. They are often opportunists. To be clear, this approach does not, however, in any way dispense with the concept of imminence. The reason I have chosen to discuss this subject at such length is because the UK takes its responsibilities to carry out robust imminence assessments in this context very seriously.

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<sup>31</sup> Daniel Bethlehem, ‘Principles Relevant to the Scope of a State’s Right of Self-Defense Against an Imminent or Actual Armed Attack by Non-state Actors’, 106 *American Journal of International Law* 769 (2012)

I am setting out today in more detail than the Government has before the substance of the legal arguments, but the UK's view that this is the correct interpretation of the law is long-standing.

Members of previous governments and other states also support this approach.

In February, I attended a meeting of the Quintet of Attorneys General in Washington (namely Attorneys General from the US, Canada, Australia, New Zealand and the UK).<sup>32</sup> The application of the international law requirements for self-defence, including imminence, was on the agenda for discussion, and we agreed to continue discussions in this regard.

The appreciation of imminence set out in Principle 8 was endorsed publicly by the United States in a speech by Brian Egan, the Legal Adviser to the US State Department, in April of last year.<sup>33</sup>

So this is UK leadership in action - working with our international partners to advance the security of our nation and of others, within a legal framework. It is leadership with practical benefits, too – because if we know that others share a common understanding of the legal tests to be met that allows us to work together more effectively.

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<sup>32</sup> Five Country Ministerial and Quintet of Attorneys General Joint Communiqué <<http://www.dhs.gov/news/2016/02/18/five-country-ministerial-and-quintet-attorneys-general-joint-communicue>>

<sup>33</sup> Brian J. Egan, 'International Law, Legal Diplomacy, and the Counter-ISIL Campaign', American Society of International Law, Washington DC, 1 April 2016 <<https://www.state.gov/s/l/releases/remarks/255493.htm>>

And nowhere does effective collaboration remain more important to our security, and the security of the world, than in the relationship between the UK and our key allies.

We should not expect every state to agree with us. For example, although the limits and safeguards built into the doctrine are clear, we need to be aware of the legitimate concerns of some states, states which are worried about the abuse of international law by aggressive neighbours who threaten their sovereignty. But what we are talking about is an application of the existing law to new threats; the application of international law to a changing world. So let me be clear that the approach I am setting out, based on the settled position of successive British governments, is a very long way from supporting any notion of a doctrine of pre-emptive strikes against threats that are more remote and even further from seeking to diminish the importance of a rules-based international order. I am not suggesting that the threshold for military force be watered down, and I am certainly not suggesting we adopt an analysis which amounts to a Global War on Terror paradigm. It is absolutely not the position of the UK Government that armed force may be used to prevent a threat from materialising in the first place. I have no interest in making it easy to resort to the use of force – military action should never be taken lightly. But states do need to be able to take necessary and proportionate action where there is clear

evidence that armed attacks are being planned and directed against them, and where it is the only feasible means to effectively disrupt those attacks.

### **Closing remarks**

International law binds the UK, both as a central tenet of our constitutional framework and as a distinct legal regime at the international level. Our actions will rightly be subject to intense public scrutiny on the world stage, and international law is crucial in framing and defending those actions. We rightly pride ourselves on being advocates for, and acting within, a rules-based approach. The interest we take in this and the example we set matter because it is in the UK's interests, as well as those of the wider world, that all states understand and comply with international law.

But no part of the law stands still. Whether made by legislators or developed by judges, our domestic law has always had to deal with new challenges our country faces. It has recognised new forms of criminality and removed some things from the ambit of the criminal courts as our attitudes to them change. It has found new ways to protect the rights of the vulnerable as new threats to those rights emerge. It has sought to protect our most ancient freedoms from the most modern dangers.

Those of us who are proud to be lawyers are proud to be so not because we hold to an archaic and immutable code but because we are part of a legal system that can and does adapt to deal with the cases of the future.

And it's clear that the application of international law has also evolved to respond to the threats now faced around the world.

In domestic law, governments propose changes to statutes, seek the consent of parliaments, and respond to judgments made by courts that set precedents. Without a legislature and without ready recourse to courts, international law is necessarily different.

This places states in a unique position, in which the law is shaped, in significant part, by what those states do, and a clear understanding of why they do it.

That is why speeches like this one need to be made. Not to complain that international law cannot keep pace with the danger the world faces today, but to argue that it can, that it does, and that it has.

To make clear, that for the United Kingdom, our determination to keep our streets and our citizens safe does not diminish the commitment to a rules-based international order the world has come to expect of us. And to say proudly that however far outside the law our attackers may go, we must defend ourselves and defeat them within the law.

**Annex 1 - List of notifications lodged by states with the United Nations Security Council in relation to the exercise of their right of self-defence against Daesh**

<b>State</b>	<b>Date(s)</b>	<b>Reference Number(s)</b>	<b>Link(s)</b>
USA	23 September 2014	S/2014/695	<a href="http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2014_695.pdf">http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2014_695.pdf</a>
UK	25 November 2014, 7 September 2015 and 3 December 2015	S/2014/691, S/2015/688, S/2015/928	<a href="http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2014_851.pdf">http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2014_851.pdf</a> <a href="http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2015_688.pdf">http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2015_688.pdf</a> <a href="http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2015_928.pdf">http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2015_928.pdf</a>
Turkey	22 February 2015 and 24 July 2015	S/2015/127, S/2015/563	<a href="https://www.justsecurity.org/wp-content/uploads/2015/12/Turkey-Article-51-Letter-Syria-02222015.pdf">https://www.justsecurity.org/wp-content/uploads/2015/12/Turkey-Article-51-Letter-Syria-02222015.pdf</a> <a href="http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2015_563.pdf">http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2015_563.pdf</a>
Canada	31 March 2015	S/2015/221	<a href="https://www.justsecurity.org/wp-content/uploads/2015/12/Canada-Article-51-Letter-Syria-03312015.pdf">https://www.justsecurity.org/wp-content/uploads/2015/12/Canada-Article-51-Letter-Syria-03312015.pdf</a>
France	8 September 2015	S/2015/745	<a href="http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2015_745.pdf">http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2015_745.pdf</a>
Australia	9 September 2015	S/2015/693	<a href="http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2015_693.pdf">http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2015_693.pdf</a>
Germany	10 December 2015	S/2015/946	<a href="http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2015_946.pdf">http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2015_946.pdf</a>
Denmark	11 January 2016	S/2016/34	<a href="http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2016_34.pdf">http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2016_34.pdf</a>
Norway	3 June 2016	S/2016/513	<a href="http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2016_513.pdf">http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2016_513.pdf</a>
Belgium	7 June 2016	S/2016/523	<a href="http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/S_2016_523.pdf">http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/S_2016_523.pdf</a>